

## DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

XCI 232-KFM

As the below named inventors, I/We hereby declare that:

My/Our residence, post office address and citizenship is as stated below next to my/our name..

If one name appears below, I am the sole inventor of the subject matter sought to be patented.

If two or more names appear below, we are joint inventors of the subject matter sought to be patented

I/We believe I/We am/are the original; and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled

### APPARATUS AND METHOD FOR LOCATING A TAGED ITEM

the specification of which

[X]

is attached hereto.

[ ]

was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_.

I/We hereby state that I/We reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I/We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

I/We also acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.63(d), which occurred between the filing date of the prior application and the filing date of the continuation-in-part application, if this is a continuation-in-part application.

I/We hereby claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for the patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

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Prior Foreign Application: \_\_\_\_\_ Application No. \_\_\_\_\_  
filed \_\_\_\_\_

Priority Claimed:  Yes  No

I/We hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status (patented, pending, abandoned)
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I/We hereby declare that all statements made herein of my/our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I/We hereby appoint the following attorneys and/or agents to represent me with respect to the above identified U.S. Patent Application, and to prosecute any continuations, continuations-in-part, reissue applications and/or reexaminations with respect to these applications and to transact all business in the Patent and Trademark Office connected therewith, and hereby expressly revoke all prior powers, whatever they may be, heretofore had herein:

Karl F. Milde, Jr., Reg. No. 24, 822; Steven M. Hoffberg, Reg. No. 33,511 and Kenneth E. Macklin, Reg. No. 20,875 all of 10 Bank Street, Suite 460, White Plains, New York 10606, my/our attorneys with full power of substitution and revocation.

Please address all telephone calls to Karl F. Milde, Jr., Esq. at telephone No. (914) 949-3100.

Please address all correspondence to:

Karl F. Milde, Jr., Esq.  
MILDE, HOFFBERG & MACKLIN, L.L.P.  
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White Plains, New York 10606

PAUL NYSEN

NAME OF INVENTOR

  
INVENTOR'S SIGNATURE

12-11-00  
DATE

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RESIDENCE

Australian  
CITIZENSHIP

SAME AS ABOVE

POST OFFICE ADDRESS

POSTED - 12-11-00

Applicant or Patentee:

PAUL NYSEN

Serial or Patent No.:

To Be Assigned

Filed or Issued:

herewith

Title:

**APPARATUS AND METHOD FOR LOCATING A TAGGED ITEM**

Attorney's

Docket No.: XCI 232-KFM

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9 (f) and 1.27(c) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- the owner of the small business concern identified below:  
 an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF SMALL BUSINESS CONCERN X-CYTE, INC.  
 ADDRESS OF SMALL BUSINESS CONCERN 6541 Via Del Oro, Suite A1  
San Jose, California 95119

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent Office in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

- the specification filed herewith with title as listed above.  
 the application identified above.  
 the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each person concern or organization having any rights in the invention is listed below:

- no such person concern or organization exists.  
 each such person concern or organization is listed below.

Separate verified statements are required from each named person concern or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING KEITH L. COCITA

TITLE OF PERSON OTHER THAN OWNER

ADDRESS OF PERSON SIGNING 6541 Via Del Oro, Suite A-1  
SAN JOSE, CA. 95119

SIGNATURE Keith L. Cocita

DATE 12/11/00